



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
MARIA M. OMS

February 19, 2009

TO: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

**SUBJECT: AB 1389 REPORTING REQUIREMENTS – DISPUTE BETWEEN
COMMUNITY REDEVELOPMENT AGENCIES AND THE COUNTY**

I would like to advise you of an issue that may arise from redevelopment agencies (Agencies) within your district. A 2008 State Budget Trailer Bill, AB 1389, requires County Auditors the duty to audit redevelopment agencies' calculations of statutory "pass-through payments" to the affected taxing entities. "Pass-through payments" are the tax increment revenue Agencies share with affected taxing entities (i.e., cities, school districts) to offset the significant fiscal impact of redevelopment. While all County Auditors followed the law to review the calculations pursuant to AB 1389, it has resulted in disputes between the Agencies and counties within California.

While the issue is controversial and unsettled, we know of no other county statewide currently calculating the payment the way Agencies insist is correct. If the County Auditor's method is correct, the County, local cities, local schools, and special districts get larger pass-through payments. Otherwise, Agencies retain significant additional money.

As these disputes can only be resolved at the State level, I sent a letter on January 8, 2009 (Attachment I), requesting the State Controller and his office (SCO) to review and clarify the intent of Health and Safety Code § 33607.7, the section that governs the calculation of pass-through payments. Also, on January 16, 2009 (Attachment II), we notified all Los Angeles County Agencies that we are actively seeking resolution from SCO.

Board of Supervisors
February 19, 2009
Page 2

The SCO contacted my office last week to further discuss our position and indicated that they will refer the matter to their legal department for review. We will continue working with County Counsel to reach a resolution with the State and notify the Agencies of the final outcome.

If you any questions, please call me, or your staff may contact Susan Linschoten, Chief of the Property Tax Division at (213) 974-8361.

WLW:SL:DH

Attachments

c: William T Fujioka, Chief Executive Officer
Raymond G. Fortner, Jr., County Counsel
Thomas M. Tyrrell, Principal Deputy County Counsel



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2706
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
ACTING AUDITOR-CONTROLLER

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
MARIA M. OMS

January 8, 2009

Honorable John Chiang
Controller, State of California
P.O. Box 942850
Sacramento, CA 94250-5872

Dear Mr. Chiang:

AB 1389 (Statutes of 2008, ch. 751) requires County auditors to assess redevelopment agencies' calculations of statutory pass-through. I write to request your review and clarification of an issue, which has surfaced in that ongoing process.

For redevelopment areas established before 1994, but amended to exceed specified limitations, Health and Safety Code § 33607.7 prescribes that redevelopment agencies make certain payments to jurisdictions.¹ The question is whether to include all tax increment revenues (Secured, Unsecured, Supplemental, Redemption and Refunds) in the calculation of § 33607.7 statutory pass-through payments for the first tier of such payments.

Under § 33607.7, a pre-existing agreement for payments governs. However, in the absence of an agreement, § 33607.7(b)(2) requires paying the tax sharing amounts under subdivision (b), (c), and (d) of § 33607.5. The uncertainty arises because § 33607.7 also states that these should be "*calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value.*"

Currently, our County and several other counties are including all tax increment revenues when calculating first-tier § 33607.7 pass-through payments. We consider "tax increments" to include everything an Agency received, including in particular, supplemental taxes, redemptions, and refund effects. A few redevelopment agencies have disagreed with our interpretation. They believe the first-tier pass-through amounts should be calculated against the excess of current year assessed value over the first adjusted base year assessed value. This has the effect of excluding the Supplemental

¹ All statutory references are to the Health and Safety code.

Honorable John Chiang
January 8, 2009
Page 2

Roll. If the Supplemental Roll is not included, taxing jurisdictions will annually lose their share, as each year it involves a distinct new Supplemental Roll.

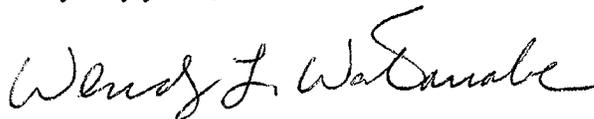
We believe that § 33607.7 must read with § 33607.5 in light of their overarching legislative purpose to mitigate local taxing entities' loss of property taxes to redevelopment. Specifically, the Legislature appears to have been concerned with the State's fiscal burden occasioned by local schools' loss of redevelopment funds.

We agree that § 33607.5 and § 33607.7 second and third payment tiers should be calculated differently to avoid double-counting.

We learned that your office has been approached on the issue described above by representatives of redevelopment agencies. We believe County auditors must have the opportunity to participate in any meetings or discussions between your office and interested parties on this issue.

I thank you in advance for your assistance in addressing and clarifying this matter. For further questions, please ask your staff to contact Susan Linschoten, Chief of the Property Tax Division at (213) 974-8361.

Very truly yours,



Wendy L. Watanabe
Acting Auditor-Controller

WLW:SL:DH

c: William T Fujioka, Chief Executive Officer
Raymond G. Fortner, Jr., County Counsel



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2706
PHONE: (213) 974-8361 FAX: (213) 617-0592

WENDY L. WATANABE
ACTING AUDITOR-CONTROLLER

ADDRESS ALL CORRESPONDENCE TO:
PROPERTY TAX DIVISION
500 W. TEMPLE ST., ROOM 153
LOS ANGELES, CA 90012-2706

January 16, 2009

ALL COMMUNITY REDEVELOPMENT AGENCIES
COUNTY OF LOS ANGELES
Attention: Treasurer or Finance Director

RE: ASSEMBLY BILL 1389 INQUIRIES (HEALTH & SAFETY CODE §33684)

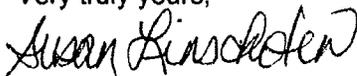
AB 1389 (Statutes of 2008, ch. 751) imposed on redevelopment agencies, and county auditors, the review of agencies' compliance with complex statutory pass-through obligations. A number of these reviews resulted in findings of nonoccurrence which we recognize have concerning consequences for agencies. Since my staff completed our reviews, many redevelopment agencies have requested to meet with our office. Some agencies have raised project-specific questions, but most have brought up questions of statewide impact regarding the County's methodology in computing the pass-through obligations to the affected taxing entities. We understand that these meeting requests were prompted by a recommendation of the California Redevelopment Association.

Our office is not the ultimate arbiter of these questions, and accordingly do not recommend meeting with agencies at this time. Under the rules prescribed by Health & Safety Code §33684, all agencies were provided at least 15 days to respond in writing to allocation issues for which Auditor-Controller did not concur with the agency's report. However, we will be happy to receive any additional information an agency was unable to provide during the response period. If in our judgment appropriate, it will be forwarded to the State Controller's Office (SCO).

One issue raised by redevelopment agencies concerns amounts subject to first-tier tax sharing for pre-1994 project areas under Health and Safety Code Section 33607.7. We implement the H&S Code §33607.7 payment calculation consistent with the practice of county auditors statewide. We have requested SCO to review and clarify the issue. We will communicate with you once we have clarification from the SCO.

Thank you for your cooperation and patience in this matter.

Very truly yours,


Susan Linschoten, Chief
Property Tax Division